LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7378
BILL NUMBER: HB 1826

NOTE PREPARED: Jan 10, 2003
BILL AMENDED:

SUBJECT: Clawback of Economic Development Incentives.

FIRST AUTHOR: Rep. Leonard
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides for the loss of tax benefits for a corporation that commits a criminal violation or violates a state administrative rule or statutory civil standard of conduct.

Effective Date: July 1, 2003.

Explanation of State Expenditures: Under the bill, the Indiana Department of Commerce (IDOC) is responsible for making determinations regarding businesses losing state tax benefits. If the IDOC reasonably believes that a business is subject to loss of part or all of a state tax benefit, it may bring an administrative proceeding to determine: (1) if the business is subject to a loss of tax benefits; (2) which tax benefits the business will lose; and (3) the percentage of the tax benefits the business will lose. The IDOC is required to notify the Department of State Revenue (DOR) of its determination.

Explanation of State Revenues: The bill provides for corporations, pass through entities, and individual sole proprietor businesses to lose a state tax benefits in a taxable year, if the entity commits any of the acts listed below in violation of state or federal criminal law, administrative rule, or statutory civil standard of conduct. While lost tax benefits to a business would result in additional tax collections to the state, the extent of this impact is indeterminable.

(1) Causes damage to the environment;
(2) violates human rights;
(3) adversely affects the public health or safety;
(4) damages the welfare of the communities in which the corporation operates; or
(5) violates the dignity of its employees.

A state *tax benefit* is a deduction, credit, exemption, or exclusion from liability for a tax of statewide application. This does not include any deduction or exclusion established under federal law that applies to determining federal adjusted gross income on a federal income tax return. The bill prohibits a lost tax benefit from being carried forward, carried back, or refunded. If the tax benefit is part of a multi-year tax benefit granted to the business entity, it is not entitled to the tax benefit in any subsequent taxable year. Collection of a delinquent tax liability result from a lost tax benefit is not subject to the statute of limitation for collection of other delinquent tax liabilities.

Explanation of Local Expenditures: Under the bill, local units are responsible for making determinations regarding businesses losing local tax benefits. If a local unit granting a tax benefit reasonably believes that a business is subject to loss of part or all of a local tax benefit, it may bring an administrative proceeding to determine: (1) if the business is subject to a loss of tax benefits; (2) which tax benefits the business will lose; and (3) the percentage of the tax benefits the business will lose. The local unit bringing the proceeding must notify the County Auditor of its determination.

Explanation of Local Revenues: The bill provides for corporations, pass through entities, and individual sole proprietor businesses to lose a local tax benefits in a taxable year, if the entity commits any of the acts listed below in violation of state or federal criminal law, administrative rule, or statutory civil standard of conduct. While lost tax benefits to a business would result in additional tax collections to local units, the extent of this impact is indeterminable.

(1) Causes damage to the environment;
(2) violates human rights;
(3) adversely affects the public health or safety;
(4) damages the welfare of the communities in which the corporation operates; or
(5) violates the dignity of its employees.

A local *tax benefit* is a deduction, credit, exemption, or exclusion from liability for an ad valorem property tax. This includes benefits that state law authorizes a political subdivision to grant to a taxpayer. The bill prohibits a lost tax benefit from being carried forward, carried back, or refunded. If the tax benefit is part of a multi-year tax benefit granted to the business entity, it is not entitled to the tax benefit in any subsequent taxable year. Collection of a delinquent tax liability result from a lost tax benefit is not subject to the statute of limitation for collection of other delinquent tax liabilities.

State Agencies Affected: Department of State Revenue; Indiana Department of Commerce.

Local Agencies Affected: Local units; County Auditors.

Information Sources:

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